



Advice from Alan

Fences and retaining walls

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The Fencing Act 1978 generally governs the building and maintenance of fences.

In some cases it will apply to retaining walls, if they are operating as a boundary fence. Building consents are required for fences over 2.5 metres high and for retaining walls over 1.5 metres high. There may be restrictions in covenants on the land, e.g. on the materials with which a fence may be built, or the colour.

An easement may be needed if a retaining wall encroaches or relies on a neighbour's land (e.g. by the use of rock anchors under the land).

Usually, neighbours on either side of a boundary fence will equally share the costs of building or replacing a fence unless the fence is damaged by one of the neighbours or there has been agreement on cost sharing.

If agreement is not reached, you can issue a Fencing Act Notice to the neighbour where the current fence is not adequate. This must include the description of the boundary to be fenced, type of fence, method of construction,

estimated total cost, how materials are to be purchased or supplied and paid for, and the date for commencement of work.

Your neighbour has 21 days after receiving the notice to object and make counterproposals – i.e. suggest a different type of fence, or dispute that a new fence is needed – via a 'cross notice'.

If the building of the fence was not urgent, and you did not notify your neighbour in advance via a fencing notice, your neighbour can refuse to pay their share of costs.

If you have provided the correct notices to your neighbour, but cannot agree, you can try mediation, or seek a decision through arbitration, the Disputes Tribunal, or the District Court.

If the fence needs immediate urgent repairs from something like storm damage and your neighbour is uncontactable, you can carry out urgent work without giving your neighbour notice and they must pay half of the cost.

Fences and retaining walls can be a complex area, so getting advice might be necessary if you cannot reach agreement.